

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

RIVER VALLEY INGREDIENTS, LLC,  
TYSON POULTRY, INC., and TYSON  
FARMS, INC.,

Plaintiffs,

v.

AMERICAN PROTEINS, INC. n/k/a  
CROSSROADS PROPERTIES A, INC.,  
AMPRO PRODUCTS, INC. n/k/a  
CROSSROADS PROPERTIES B, INC.,  
GEORGIA FEED PRODUCTS COMPANY,  
L.L.C. n/k/a CROSSROADS PROPERTIES  
C, LLC, THOMAS N. ("TOMMY")  
BAGWELL, DON MABE, MARK HAM, and  
MIKE HULL,

Defendants.

Civil Action No.:

19-2358-RGA

**PUBLIC VERSION**

**DEFENDANT DON MABE'S NOTICE OF REMOVAL**

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December 27, 2019  
Public version dated: January 3, 2020

Defendant Don Mabe (“Mabe”) removes this action from the Superior Court of the State of Delaware pursuant to this Court’s diversity jurisdiction. *See* 28 U.S.C. §§ 1332, 1441, and 1446. In support of removal, Mabe submits this notice and respectfully shows as follows:

## **I. SUMMARY**

1. Plaintiffs River Valley Ingredients, LLC f/k/a Tyson Blending, LLC (“River Valley Ingredients”), Tyson Poultry, Inc. (“Tyson Poultry”), and Tyson Farms, Inc. (“Tyson Farms”) (collectively, “Plaintiffs”) commenced this action on December 20, 2019, by filing a Complaint for damages (the “Complaint”) in the Superior Court of the State of Delaware (“State Court Action”).

2. Attached as Exhibit A is a true and correct copy of the docket report from the State Court Action. In accordance with 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served in the State Court Action are contained in Exhibit B, attached.

3. Plaintiffs’ claims arise from the sale of certain assets and operations of American Proteins, AMPRO, and Georgia Feed (collectively, “API”) to Tyson Poultry pursuant to an Asset Purchase Agreement dated May 14, 2018. Compl. ¶¶ 2-7. In connection with their claims, Plaintiffs seek compensatory and punitive damages. *Id.* ¶ 8.

## **II. TIMELY REMOVAL**

4. Mabe agreed to allow his counsel to accept service on his behalf, and counsel for Mabe communicated acceptance of service for Mabe to opposing counsel on December 24, 2019. Accordingly, this removal notice is filed within thirty (30) days of service of Plaintiffs’ Complaint and, therefore, is timely under 28 U.S.C. § 1446(b)(1).

### **III. VENUE**

5. Venue for removal is proper in this district, the United States District Court for the District of Delaware pursuant to 28 U.S.C. §§ 1441(a) and 1446(a), because this district embraces the Superior Court of the State of Delaware—the forum in which the removed action is pending.

### **IV. BASIS OF REMOVAL – DIVERSITY JURISDICTION**

#### **A. There is complete diversity among the parties.**

6. Pursuant to 28 U.S.C. § 1332(a) and § 1441, this Court has original jurisdiction over Plaintiffs' claims in this matter because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and because Plaintiffs and Defendants are citizens of different States.

7. The removal of this action is made without prejudice to any of Defendant Mabe's potential defenses to be asserted in this action.

#### **Citizenship of Plaintiffs**

8. For purposes of U.S.C. § 1332 and § 1441, a corporation shall be deemed to be a citizen of the state where it has its principal place of business and any state where it is incorporated.

9. Plaintiff River Valley Ingredients is a Delaware limited liability company with its principal place of business in Springdale, Arkansas. River Valley Ingredients is a citizen of the states of Delaware and Arkansas. River Valley Ingredients is a wholly-owned subsidiary of Tyson Poultry.

10. Plaintiff Tyson Poultry is a Delaware corporation with its principal place of business in Springdale, Arkansas. Tyson Poultry is a citizen of the states of Delaware and Arkansas. Tyson Poultry is a wholly-owned subsidiary of Tyson Foods, Inc., a publicly-traded Delaware corporation with its principal place of business in Springdale, Arkansas.

11. Plaintiff Tyson Farms is a North Carolina corporation with its principal place of business in Springdale, Arkansas. Tyson Farms is a citizen of the states of Delaware and Arkansas. Tyson Farms is a wholly-owned subsidiary of Tyson Foods, Inc.

**Citizenship of Defendants**

12. Defendant American Proteins, Inc. n/k/a Crossroads Properties A, Inc. (“American Proteins”) is a privately-held Georgia corporation with its principal place of business in Cumming, Georgia. American Proteins is a citizen of the state of Georgia.

13. Defendant AMPRO Products, Inc. n/k/a Crossroads Properties B, Inc. (“AMPRO”) is a Georgia corporation with its principal place of business in Cumming, Georgia. AMPRO is a citizen of the state of Georgia.

14. Defendant Georgia Feed Products Company, L.L.C. n/k/a Crossroads Properties C, LLC (“Georgia Feed”), is a Georgia limited liability company with its principal place of business in Cumming, Georgia. The sole member of Georgia Feed is American Proteins. Georgia Feed is a citizen of the state of Georgia.

15. Defendant Thomas N. (“Tommy”) Bagwell (“Bagwell”) is a natural person and is a resident of the state of Georgia.

16. Defendant Mabe is a natural person and is a resident of the state of Georgia.

17. Defendant Mark Ham (“Ham”) is a natural person and is a resident of the state of Georgia.

18. Defendant Mike Hull (“Hull”) is a natural person and is a resident of the state of Georgia.

**B. The amount in controversy exceeds \$75,000.**

19. On its face, the sealed Complaint alleges damages in excess of \$75,000. Compl. ¶¶ 23, 133-34.

20. Defendant Mabe denies that Plaintiffs are entitled to an award of damages in any amount in this case; however, there can be no dispute that Plaintiffs seek an amount in excess of the minimum amount in controversy.

21. Defendant Mabe is filing this Notice of Removal under seal because Plaintiffs sought leave to file the Complaint and exhibits thereto under seal in the Superior Court of the State of Delaware, which that court granted. Defendant Mabe likewise will seek leave from this Court to file the Complaint and exhibits thereto under seal.

**V. NOTICE**

22. Pursuant to 28 U.S.C. § 1446(d), Defendant Mabe shall promptly serve a copy of this Notice upon Plaintiffs, and it shall file the same with the Clerk of the Superior Court of the State of Delaware.

23. Pursuant to 28 U.S.C. § 1446(a), all process, pleadings, orders, and other papers contained with the Superior Court's docket as of the date of this filing are attached hereto as Composite Exhibit "B."

**VI. ALL KNOWN COUNSEL OF RECORD**

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## **VII. REMOVED FROM THE FOLLOWING COURT**

Civil Action No. N19C-12-160 MMJ CCLD  
Superior Court of the State of Delaware

## **VIII. INDEX OF DOCUMENTS ATTACHED**

Exhibit A	Copy of the docket report for Civil Action No. N19C-12-160 MMJ CCLD, in the Superior Court for the State of Delaware
Exhibit B	Filings in Civil Action No. N19C-12-160 MMJ CCLD, in the Superior Court for the State of Delaware
B-1	Complaint and Exhibits thereto

B-2                    Plaintiffs' Motion for Leave to File Complaint Under Seal

B-3                    Order Granting Plaintiffs' Motion for Leave to File Complaint Under Seal

## **IX.        CONCLUSION**

For the reasons stated above, Defendant Mabe respectfully requests that the Court proceed as if the Plaintiffs had originally filed in this Court.

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